

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Veolia Propreté SAS

v.

Italian Republic

(ICSID Case No. ARB/18/20)

PROCEDURAL ORDER NO. 3

Document Production

Members of the Tribunal

Mr. Eduardo Zuleta, President of the Tribunal
Ms. Judith Gill QC, Arbitrator
Prof. Laurence Boisson de Chazournes, Arbitrator

Secretary of the Tribunal

Ms. Natalí Sequeira

June 11, 2021

I. INTRODUCTION

1. In accordance with Section 15 of Procedural Order No. 1 and Annex B thereof, as amended, on May 28, 2021 the Parties submitted their document production requests including (a) requests for production to which a Party had initially objected, but finally agreed to produce; and (b) requests for production that require a decision from the Tribunal.
2. Section 15 of Procedural Order No. 1 provides that “[t]he International Bar Association Rules on the Taking of Evidence in International Arbitration (2010) shall guide the Tribunal and the parties regarding documents production in this case.”
3. The Tribunal has reviewed: (a) the Claimant’s request for document production, the Respondent’s objections and the Claimant’s reply to said objections, which appear in the Redfern Schedule prepared by the Claimant (the “Claimant’s Redfern”); and (b) the Respondent’s request for document production, the Claimant’s objections and the Respondent’s reply to said objections, which appear in the Redfern Schedule prepared by the Respondent (the “Respondent’s Redfern”).
4. In addition to the IBA Rules the Tribunal (a) has considered that each party has the burden of proof regarding the facts relied on to prove its claim or defense and therefore, it is not for a party to request documents that correspond to facts with respect to which the other party has the burden of proof; and (b) accepts that some financial information is appropriate and considers the financial statements for the years in question to be a proportionate request, but that a general request for ‘detailed accounting’ or ‘detailed explanation and accounting’ is too vague.

II. DECISION OF THE ARBITRAL TRIBUNAL

5. In light of the above, after having carefully reviewed the requests for production, objections and replies submitted by the Parties in the Claimant’s Redfern and the Respondent’s Redfern and having considered each request in light of the legitimate interest of the other Party, taking into account all the relevant circumstances, including the fundamental principle of the integrity of the arbitral process, the Tribunal decides as indicated for each request in the Claimant’s Redfern and the Respondent’s Redfern attached to this Procedural Order.
6. The production of documents ordered by the Tribunal shall take place as provided for in Annex B of Procedural Order No. 1, as amended.

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[Signed]

Mr. Eduardo Zuleta

President of the Tribunal

Date: June 11, 2021